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Dakota Territory Governors' Messages

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Message of His Excellency ... January, 1879

Message of ... January, 1881

Biennial Message of His Excellency ... January, 1883

LEGISLATIVE ASSEMBLY OF DAKOTA TERRITORY,
ELEVENTH SESSION.

FIRST BIENNIAL MESSAGE

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1902

GOV. JOHN L. PENNINGTON,

TO THE

LEGISLATIVE ASSEMBLY

OF THE

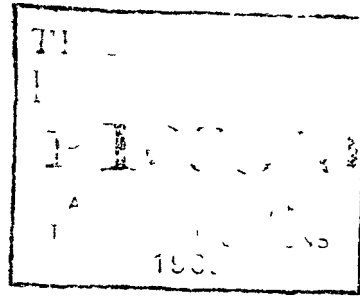
TERRITORY OF DAKOTA,

PUBLISHED BY AUTHORITY.

YANKTON, DAKOTA TERRITORY:
W. S. BOWEN & CO., PUBLIC PRINTERS.

1874-75.
M. A. N.

*SBK
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MESSAGE.

Gentlemen of the Council and House of Representatives:

You are assembled here to consult together and enact laws for the best interests of the people, and I hasten to assure you that in all your labors for the development of the resources of the Territory, the protection of society and the enhancement of the prosperity of the people, whose servants we are, you shall have my hearty co-operation. Let us then, laying aside all selfish and partisan feelings, and invoking the aid of Divine wisdom, without whose guidance all our labors are as nothing, and mindful of the great responsibility resting upon us, enter upon the discharge of the important duties before us.

Great and startling events have occurred, in this country, since the adjournment of the last Legislature, some of which have seriously affected the growth and prosperity of Dakota.

In the fall of eighteen hundred and seventy-three a financial panic occurred, from which all the industrial pursuits and business interests of the country are still suffering—a crash that stunned and almost paralyzed, for a time, all commercial operations, and caused a suspension of nearly all great business enterprises.

This monetary convulsion necessitated a suspension of all construction work on the Northern Pacific Railroad, and as a result checked to a great extent the rapid flow of immigration that was pouring into the Northern part of the Territory. Let us hope however that reviving prosperity will soon enable the projectors of that great National highway to go forward with it, and that we may enjoy the benefits of the increased population and wealth that such resumption will be sure to bring.

The worst governed people are those who are governed most, and those who have the largest number of statutes have, as a general thing, the poorest laws.

I do not deem it my duty to recommend much in the way of new legislation, for in my humble judgment you can accomplish more good by a careful revision and simplification of existing statutes, than you can by enacting new ones. All statutes should be plain, simple, direct, and free from ambiguity or vagueness.

With these preliminary generalities, I proceed to refer, under appropriate heads, to some of the more prominent subjects which will probably receive attention at your hands.

FINANCE AND TAXATION.

On the finances of the Territory there is but little to say. The government of the United States defrays the expenses of the Legislative Assembly and pays the salaries of the Federal Officers, so that the amount to be raised from the people by taxation, is small, and hence there need be no complaint of burthensome taxation. The Territorial Auditor and Treasurer are required, by existing laws, to make "annual reports to the legislative assembly on or before the first Monday in January in each year," and not having access to the reports of these officers in time for the preparation of this communication, I am precluded from giving any information as to their operations for the present or preceding fiscal year. These reports will no doubt be presented for inspection and examination by your honorable body, as provided by law.

I would respectfully suggest however that the Auditor, Treasurer, Superintendent of Public Instruction and Commissioner of Immigration be required to make annual reports to the Governor, and that they be required to prepare and deliver them in time for that officer to avail himself of their use in the preparation of his message, and that it be made the duty of the Governor to transmit the reports of the Territorial officers named to the legislative assembly with his own communication to that body.

Our population is mainly agricultural, and as in most new countries, most of them very poor, and hence the legislative authority should render taxation as light as possible, and only collect enough from the people to answer the purposes of the most economical form of government. The present

Revenue law provides that "the rate of the general territorial tax shall not be less than one half mill, nor more than two mills on the dollar valuation." The territorial board of equalization fixed this general tax, for the current year, at one mill on the dollar, which it is thought will be quite sufficient if promptly collected. I therefore see no necessity for increasing the amount which may be raised for territorial purposes.

INTEREST ON LOANS.

It has been argued by learned writers that as nations progressed in civilization and refinement the market rate of interest on loans of money continually fell. Thus in the thirteenth century, in maritime Europe, the market rate on the best securities averaged over fifteen per cent, but in the eighteenth century the market rate on similar securities had fallen to less than three per cent.

The inflation and fictitious values of the last few years, in this country, have had a tendency to largely advance the rate on loans, and as the poorer, producing classes are the borrowers, the high rates of interest which they have been compelled to pay for accommodation, have contributed largely to hamper and cripple all industrial and commercial pursuits, and is undermining and eating up the labor of the country. The cry that "money is worth what it will bring" is not only untrue in fact, but its practical application tends to demoralize all commercial operations and to paralyze the energies of the producing classes. A stable currency and a uniform, low rate of interest will alone restore a healthy condition to the body politic, and bring prosperity to the individual citizen. "High interest is only another name for bad security" is a truism that is recognized by all shrewd business men, and especially by capitalists who loan money; and any state, territory or community that will establish a reputation for prompt payment can get all the money they want at reasonable rates.

The poor farmer who is struggling on a homestead for subsistence, and who attempts to better his condition by borrowing money at eighteen to twenty-four per cent., will soon find himself without home or bread, for in the majority of cases it requires a foreclosure of the mortgage to collect the debt; and no amount of economy and industry on the part of the

debtor will enable him to pay such a rate of interest. Generous and productive as our soil is, it will not justify those who till it in paying such rates of interest for the use of money.

The rate of interest in this Territory was originally fixed by law at seven per cent. per annum on the dollar, and such is still the law except where a higher rate is agreed on between the borrower and the lender, where by mutual agreement the rate may be made as high as eighteen per cent., and of course but few contracts are made save at these highest figures. It is contended by some that, in new countries on the frontier, it is necessary that local statutes should establish a high rate of interest to induce capital and investment. In my humble judgment this is a mistake. The establishment, by law, of a low rate of interest, would inspire capitalists at a distance not only with our ability but with our determination to pay, and the improved commercial and financial character thus created for ourselves, would secure for us all the money we might require to develop and build up the Territory, without impoverishing our citizens to enrich usurers and shylocks.

For these reasons I respectfully recommend and in the name of the laboring and producing classes most earnestly urge, that your honorable body so amend and change existing laws as that not more than ten per cent. per annum on the one dollar shall be collectable; and that the taking of a larger rate, under any pretext whatever, shall be deemed usury and be declared unlawful, and be punished by the infliction of pains and penalties. All laws that recognize and permit such extravagant and exorbitant rates of interest as have prevailed in this Territory, are intended for the benefit of the few at the expense of the many; for the oppression of labor in the interest of capital; and the people whose voice has clothed you with authority to enact laws expect relief from these grievances at your hands.

AGRICULTURE.

The future wealth of Dakota must depend largely upon the products of the soil, as the pursuits of our population are mainly agricultural. The soil is generally fertile and well adapted to the growth of wheat, barley, oats, rye, potatoes, etc., while fruits and vegetables may be raised in sufficient quantities to supply the wants of the people; but the main reliance for wealth, especially to our farmers, is in the growth

of wheat. Our climate and soil enables us to produce wheat which makes a flour that is unsurpassed in the markets of the world, and already has Dakota flour attained such a reputation for superior excellence, in the eastern markets, that it commands a much higher price than any other brand, if we except possibly that made from Minnesota wheat; and notwithstanding the rapid growth of our population and the increased production of wheat, it is impossible to supply the demand.

The great obstacle in the way of the successful growing of wheat has been the occasional visitation of the grasshoppers, but the success of the present year, while not all that could have been wished, was still such as to warrant the conclusion that thorough preparation of soil, early sowing and timely harvesting, with prudence in the selection of seed, will insure abundant yield.

Success in agriculture gives to a people vitality, activity and profit in all the other avocations and pursuits, and I earnestly invoke the fostering care of the law-making power for the aid and protection of the tillers of the soil.

PUBLIC SCHOOLS.

The education of the masses is the great safeguard of society and the sheet anchor of republican liberty. Legislative enactments and judicial proceedings can do but little to promote the prosperity and happiness of a country the masses of whose people are kept in ignorance. I therefore earnestly recommend that you carefully examine the existing laws on the subject of public schools, and promptly supply all needed reforms and cure all existing defects.

The Superintendent of Public Instruction made an elaborate report to the executive, bearing date January 1st, 1874, a copy of which is herewith transmitted, and to which I invite a careful examination on your part. The report furnishes evidences of interest and zeal for the work and in the cause of education, and you are respectfully referred to the suggestions and recommendations that have been made, or that may hereafter be made, by the Superintendent, whose business it is to thoroughly understand the machinery of our whole educational system, and to promptly point out and zealously urge all needed reform.

From a cursory examination of the report referred to, it ap-

pears that rapid strides have been made in the establishment of schools and in providing facilities for educating the children, but owing to the increase of population and the extension of settlements, the work will be a continuous one, and additional legislation will be necessary from time to time, all of which I doubt not will be cheerfully rendered by you and your successors in office.

No subject that you are called on to consider is of more vital interest to the masses of the Territory than that of public schools, and the law-making power of a country falls far short of its duty if it fails to make ample provision for the education of the people.

GRASSHOPPER VISITATION—DESTITUTION.

The crops of the present year, in some parts of the Territory, were seriously damaged by the grasshoppers, but the wheat, our main dependence, sustained more injury from drouth and intense heat than from grasshoppers. Should the grasshoppers afflict us every year, which is not at all probable, the use of early varieties of wheat and early seeding will thwart their operations, so far as this our staple product is concerned.

Notwithstanding the grasshopper visitation, however, but one instance of destitution, actual or prospective, has been brought to the attention of the executive department, though others may and probably do exist. In the county of Brookings, I am informed by reliable authority, there are ten or twelve families comprising not more than forty or fifty persons in all, who have been rendered actually destitute in consequence of the destruction of their crops. These people are now without the actual necessities of life, and from no fault of their own, and must have assistance to help them through the winter and to make another crop, or they may starve. If it be in the power of such of our citizens as have been more highly favored, to relieve the necessities of their more unfortunate neighbors, it will be much better for our present and future prosperity that they do so, and not call on the outside world for aid. And I earnestly recommend that your honorable body take such action in the premises as an enlightened statesmanship may suggest, and such as the exalted principles of humanity and the inspired teachings of Christianity will approve.

RAILROADS.

We can not look for any railroad extension or construction until the country recovers from the commercial and financial depression which now exists. In late years railroads have been built mainly by subsidies, and with money obtained from abroad, and not with means furnished by the citizens of the country through which the improvements have been made. Our population is rapidly increasing, settlements are extending and new ones are opening up, and there is a large annual increase of the products of the soil; and we must soon have more railroads. The people of the Sioux Valley, of the Vermillion Valley, of the Dakota river valley, and those along up the Missouri, feel the need of additional means of transportation, and are clamoring for railroads, but that they are not yet in a condition to construct them is an undeniable fact. How and when then are we to get them? We answer, that we must appeal to the generosity of the general government and ask that a part of the public lands be donated to us, as they have been to other states and territories, for that purpose. And further, we must encourage capitalists by a most liberal system of legislation to assist in our expansion and development by investing their own means in new railroad enterprises, and in extending such as already have a foothold in our young and growing territory. In order to build up we must have help from without, and our legislation must be such that the capitalist who comes here to put his money into railroads or other enterprises will feel that it is safe, and that he is not to be made the subject of oppressive taxation to satisfy an agrarian or fanatical sentiment.

In some of the older communities powerful corporations have doubtless become oppressive monopolies, but the good overbalances the evil done by railroads as ten to one throughout the land, and the few instances of monopoly and oppression that have occurred by no means justify the howl that has been made, nor the unwise and impolitic legislation that has occurred in some of the States. Railroad property, like all other property, should be the subject of taxation, but a people who acknowledge their own inability to build roads and who are inviting capital from abroad to come and build for them, should be very guarded how they tax, or how they propose to tax, such property.

The people of the Territory owe a debt of gratitude to the men who conceived and carried to their present unfinished condition, the roads we have, as well as to the government that so liberally aided some of them. And our people should cultivate kindly feelings of friendship with those who have extended these great arteries of trade and commerce to this remote outpost of civilization, by levying only a nominal tax on their property, especially now while their earnings are small, and by the pursuance of a uniformly liberal and generous policy, encourage others to come and extend and enlarge the system of railroads, in our Territory, which a few bold and adventurous men have commenced.

REVISION OF THE LAWS.

The necessity for a thorough and systematic codification of the statutes of the Territory is severely felt and imperatively demanded, and I earnestly recommend that you take prompt action in this important work. Owing to the confusion which now exists, and the difficulty experienced in satisfactorily construing laws, and in determining what is and what is not of force, justice is often delayed and sometimes altogether thwarted. Our code of civil and criminal procedure, and all our legislative enactments, should be made so simple, so plain and so direct and unmistakable in their meaning, that they may be readily comprehended and understood, not only by the learned men of the legal profession, but they should be so comprehensive that all the people who are required to obey and be governed by them can understand them.

This is a work that should receive early attention, and I trust you will not adjourn until some much needed improvements and wholesome reforms shall have been perfected.

IMMIGRATION.

The increase of population, especially by immigration from Europe, since the adjournment of the last legislature, has been quite large, and a constant stream is still flowing in; and while I do not share the feelings and hopes of those persons who think that Dakota is to be admitted as a state in a year or two, I do consider the rapid increase of population, whether considered as to numbers or character, as a good augury for the state of Dakota that is to be. This immigration should be encouraged by all the means within our power, and

I respectfully recommend that such aid and encouragement be extended for that purpose as your wisdom may suggest.

We have a Commissioner of Immigration but he can do nothing without means. We have a magnificent climate, splendid soil, fertile valleys, productive prairies and all that, but we must have muscle to develop them. And we should not only invite and welcome foreign immigration, but we should use every available means to induce it. No native American should fear the competition of foreign labor whatever that labor may be. We need labor worse than we need capital, for give us the productive labor and it will soon create its own capital. Publications setting forth the character of our climate and soil and the advantages they possess, together with a concise and truthful estimate of the general resources of our extended territory should be carefully prepared and widely circulated in those countries of Europe from whence our immigration is mainly derived; and an active, energetic agent should be kept in New York during that part of the year that immigration is heaviest, to encourage, aid and assist such as desire to come to Dakota.

The adoption of these propositions will involve some expense, and of course an appropriation will be necessary, but in my judgment, if properly applied, such an amount as your wisdom may be pleased to give that direction could not be more wisely or judiciously expended.

THE BLACK HILLS.

The reported presence of precious metals in the Black Hills, by the officers commanding and persons accompanying the military expedition made by order of the government of the United States, to that section of this Territory during the past summer, has created a good deal of excitement, not only in Dakota but throughout the country, and a great desire has been manifested to have it opened up to immigration and settlement.

By reference to U. S. statutes at large, vol. 15, page 635, it will be seen that all that part of the country known as the Black Hills, which lies in Dakota, is embraced in the Sioux Indian Reservation, and that the government of the United States is bound by the sacred obligations of this treaty to protect those tribes of Indians to whom the cession was made, in the peaceful possession of their reservation. While this

treaty is of force, any citizen who enters upon the reservation is a violator of the law, and subject to be arrested, tried and punished for such infraction; and I admonish all citizens of Dakota not to be tempted, even by the fabulous reports concerning gold in the Black Hills, to subject themselves to punishment for a violation of the laws of their country.

Your honorable body might with propriety make known the wishes of the people whom you represent, relative to the opening of the Black Hills, by a memorial to Congress; but while the treaty remains, I advise all citizens of this Territory to keep off the forbidden ground. The law will be enforced, the dignity of the government will be maintained, and all expeditions in that direction, in violation of law, will come to grief.

TERRITORIAL OFFICERS.

I respectfully recommend that the Auditor, Treasurer, Superintendent of Public Instruction and the Commissioner of Immigration be required either to reside at the Capitol or to keep an office there attended by a deputy, and to be accessible at all times to the public. This may require some little increase of salaries, but if these officers are necessary at all they should keep their offices at the seat of government; and in my judgment our increasing population and business demands the change even though it should be a little more expensive.

TERRITORIAL LIBRARY.

Most of the States I believe send us copies of the Reports of their higher courts, and an extensive Law as well as Miscellaneous Library would soon be accumulated, provided the books were properly cared for and protected; but there has evidently been too much negligence heretofore in the custody of this property, and this negligence has occasioned considerable loss to the Territory. I respectfully recommend that a suitable appropriation be made for rent of room for library, to pay freight and other charges on books donated, and to compensate some suitable person for labeling, arranging and exercising a general supervision over all the books belonging to the Territory. I suggest that the Secretary of the Territory would be a proper custodian for the property, but your honorable body can either designate some one or authorize the governor to appoint a librarian as to you may seem best. The property is too valuable to be neglected, or

to be scattered and wasted. The whole library should be in the custody of some one person, who should be required to take the receipt of some responsible person for every book removed from it. By the adoption of some such system alone can this valuable property be protected.

JUDICIAL DISTRICTS.

A rearrangement of the territorial boundaries of the three Judicial Districts of the Territory is imperatively demanded for the convenience of citizens and the prompt administration of justice, and I respectfully call your attention to the urgency for speedy action on this subject.

APPORTIONMENT OF REPRESENTATION.

Your attention is called to the inequality and injustice of the present apportionment, and I respectfully urge that you rearrange the Council and Representative Districts; and I trust you will perform this duty with due regard to population, and that entire justice will be done to every part of the Territory. And this should be done too without any regard to the proposed new Territory of Pembina, which however desirable may never have an existence in fact. But justice should be done the people of Northern Dakota, by giving them their proportionate part of representation in our legislative assembly.

TIMBER.

Nothing will enhance the value of the prairie homestead so rapidly as the planting of trees and the growth of timber. Besides the improved appearance and additional comfort secured, a few acres of timber adds largely to the cash value; and I earnestly appeal to every owner of the soil to plant trees, and respectfully suggest to your honorable body to encourage and foster the growing of timber by the enactment of wise and judicious laws, should your wisdom suggest that legislation is necessary on that subject.

PARDONS.

No pardons have been granted since I took charge of the Executive department. But one application has been made, and in that I declined to take any action, the case being then before the Supreme Court on appeal.

THE ELECTION LAW.

By the 34th section of the law regulating elections in this

Territory, (see laws of 1870-71,) if the returns of the election in any organized county shall not be received at the office of the Secretary of the Territory within thirty days after the day of election, it becomes the duty of the Secretary to forthwith send a messenger to the Register of Deeds of such county, whose duty it shall be to furnish said messenger with a certified copy of such returns; and the traveling expenses of such messenger, at the rate of ten cents per mile for each mile necessarily traveled in going to and returning from the office of said Register, shall be paid out of the treasury of the Territory.

I suggest that this be so changed as to make the expense thus incurred a charge against the delinquent county, for it is manifestly unfair that the people of the whole Territory should be taxed on account of the negligence or rascality of the officials of one county. And as the Register and County Commissioners of Charles Mix county have actually refused to deliver a certified copy of the returns of the recent election to a messenger sent for them by the Secretary of the Territory, I respectfully recommend that you so amend the election law as to punish severely such insolent disregard of duty in the future. If such things are to be allowed, a condition of affairs might arise that would enable the officers of a single county to thwart the voice of the whole Territory; and in my opinion the failure of any officer to make returns, or to deliver up returns when called for by the Secretary, as required by law, should be deemed guilty of a felony and be punished by imprisonment in the penitentiary. I also suggest that the election law should be amended as to the time of holding elections, to conform to the statute of the United States, which requires that in the year 1876, and thereafter, all the States and Territories shall elect their members and delegates to Congress on the Tuesday next after the first Monday in November. See Statutes at Large 17, page 28, session 1871-73.

APPREHENSION OF CRIMINALS—REWARDS.

I find in the statutes no power conferred upon the Governor authorizing him to offer rewards for the apprehension of persons who have committed crime, and fled from justice. My attention was called to this matter by being urgently solicited to issue a proclamation offering a reward for the apprehension of one who was charged with having committed an atro-

cious crime, and who fled the Territory. But in the absence of any law authorizing it, I declined to act.

While I wish to promote the utmost economy in the expenditure of the public funds, I desire that the lives and property of the people should be protected by the just administration of the laws, and the prompt punishment of crime; and I respectfully recommend some legislation empowering the Executive to offer rewards in cases of extreme aggravation.

NATIONAL AFFAIRS.

Taking a retrospective view of the extended republic of which we are a territorial dependency all is not as tranquil as the patriotic heart could wish. True as citizens of a common country we have just cause of congratulation on account of national progress and development, the faithful and honest administration of the general government and the rapid decrease of the public debt; but the utter disregard of law, the assassinations, murders, riots and insurrections that have occurred in some of the states, during the present year, fix an ineffaceable blot upon our national escutcheon and attach a lasting disgrace to our boasted civilization. For these scenes of lawlessness and bloodshed the state authorities and the local police in the states where they have occurred are mainly to blame. The frequency of these occurrences of late, however, and the openly proclaimed hatred to the government of the United States of the prominent actors in them, prove beyond doubt that there is a widespread feeling of disloyalty throughout several of the states, calculated to create a feeling of uneasiness and alarm in the breast of every truly patriotic American citizen. But for these lawless and disgraceful demonstrations, the growth of the country in wealth, power and greatness is all that the fondest enthusiast for the perpetuity of our republican system and inviolability of the union could wish. But these are matters for the Congress of the United States, and let us devoutly hope that these law-makers of the land will, in the fear of God and deeply sensible of their responsibility to men, come up to the full measure of their duty in the premises; that crimes revolting to humanity may be punished, that the humble and lowly may be protected in their rights of person and property, throughout all the broad land; and that mutual respect, mutual confidence and a feel-

ing of brotherly kindness may be speedily established between the people of remote sections of our great union of states.

The promptness and wisdom with which the chief executive and other governmental authorities have acted, in the suppression of riots and insurrections, is worthy of all praise; and to them and the Congress we must look for a happy issue out of all these troubles.

THE CENTENNIAL.

The Centennial Exhibition, which it is proposed to hold in Philadelphia in the year eighteen hundred and seventy-six, to celebrate and commemorate the one hundredth anniversary of American Independence, is attracting the attention not only of the entire people of our own country but of all the civilized nations of the world, and it is expected that all the christian powers of the earth will be represented in this great jubilee on the occasion of this first centennial anniversary of the freest and greatest nation on the earth.

While we cannot expect to compete with the states or even with the older territories in contributions to that vast collection, still we can contribute something, and I imagine that every patriotic Dakotian will desire that there be a Dakota department in this greatest of all world's expositions.

Impressed that such would be the wishes of our people and in obedience to an invitation, by the commissioners of the centennial exhibition to all the states and territories to appoint a board of managers not to exceed five in number, to represent the interests of their respective constituencies in the said exhibition, I appointed, by proclamation, on the 16th day of February 1874, Hon. F. J. Dewitt, Hon. E. W. Miller, Hon. A. F. Shaw, Hon. Walter J. S. Traill and Hon. W. A. Burleigh to constitute the said board for this Territory.

I respectfully request that your honorable body recognize this board of managers and clothe them with all the necessary authority to co-operate with the commissioners appointed by the President of the United States, in giving Dakota a respectable representation in this great International Exhibition.

INDIAN AFFAIRS.

I have heard but little complaint of Indian depredations along our borders during the present year. The Indians on

the reservations within Dakota seem to have been generally quiet and well behaved, and whatever may be the opinions of theorists on this problem, I am of opinion that the present peace policy being pursued towards these wild tribes is the best ever yet instituted, and that results are being developed highly creditable to those who are concerned in the control and management of Indian affairs.

While it is the duty of the general government to look after the Indians and prevent their infringing the rights of citizens, it is our duty, so far as the citizens of this territory are concerned, to see that citizens keep off the reservations and do not infringe those rights of the Indians, to maintain which the good faith of the government of the United States is pledged.

PUBLIC BUILDINGS.

Though the need of them is severely felt the territory is not the owner of any public buildings. We ought to have a capital building sufficiently large to accommodate the sittings of the legislative assembly and the various federal officers, and also a penitentiary for the safe keeping of convicts; and I recommend that you memorialize Congress for an appropriation for these purposes.

CONCLUSION.

Being fresh from your constituencies, selected it is to be presumed from amongst all the people on account of your superior intelligence and acknowledged virtues, I bid you welcome, in their name, to these legislative halls, and invoke the blessing of Almighty God to give you wisdom and courage sufficient for every emergency that may arise in the discharge of the responsible duties upon which you are about to enter.

JOHN L. PENNINGTON.

EXECUTIVE OFFICE, YANKTON, D. T., }
December 7, 1874.